

China Abolishes Legalization Requirement on Foreign Public Documents and Adopts Apostille

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On March 8, 2023, China acceded to the Convention Abolishing the



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Requirement of Legalization for Foreign Public Documents (the “**Convention**”, also known as the Apostille Convention). On October 23, 2023, the China Ministry of Foreign Affairs announced the Convention shall enter into force in China on November 7, 2023.

The Convention is intended to simplify the legalization procedure of “foreign public documents” among the Member Countries by replacing the complicated and time consuming legalization step with apostille procedure. “Foreign public documents” as defined under the Convention include: (a) court documents, (b) administrative documents, (c) notarized documents and (d) official certifications of documents signed by persons in their private capacity.

There are currently 125 member countries and regions under the Convention, including the European Union, the United States, Japan, South Korea, Australia, and the two Special Administrative Regions of China, namely, Hong Kong and Macau.

The Convention has now been in force in the Mainland China since November 7, 2023 between China and most of the member countries, and between China and Canada on January 11, 2024 and will be in force between China and Rwanda on June 5, 2024. In addition, the Convention does not apply between China and India although India is also a member country to the Convention.

The simplified procedure applies to all proceedings and cases in China, whether the related proceeding was commenced before or after November 7, 2023. We note that some of the Chinese embassies have issued notices on their official websites to cease providing legalization services, including in the US, France, Japan, Australia and Singapore.

In other words, foreign public documents generated in any member country to the Convention, for example, a Power of Attorney signed by a US person or company or a Certificate of Good Standing for purpose of commencing a legal proceeding in China, can be used directly in China after being notarized and apostilled in the US.

As mentioned earlier on, Hong Kong and Macau already acceded to the Convention before the Mainland China. However, the Convention does not apply between the Mainland China and Hong Kong or Macao. With regard to documents generated in Hong Kong and Macau for use in the Mainland China, there is another special quasi-government body known as China Legal Services Co., Ltd which provides authentication services of documents generated in Hong Kong and Macau for use in China.

For more information regarding the apostille procedures and requirements in Hong Kong and Macau, you may visit:

[Hong Kong Judiciary - Apostille Service](#) (Hong Kong)

[PS-1062 Authentication of Official Documents for Use Overseas](#) (Macau)

[Governo da Região Administrativa Especial de Macau](#) (Macau)

Apostille and legalization are both for the purpose of certifying the origin of a document. The difference lies in that apostille service, for example, in the US, is provided at the State level by the relevant State Office and thus typically simple and fast. Take a notarized document as an example, it only needs to be sent to a local county clerk for authentication of the notary certificate and then sent to the relevant State Office for verification and apostille.

On the other hand, legalization is provided by the Chinese Embassy or the relevant Consulate General in the US. A notarized document, after being authenticated by a local county and verified by the relevant State Office, must be sent to the US Department of

Justice for authentication and be returned to the applicant after that. The applicant then needs to submit the document to the Chinese Embassy or the relevant Consulate General in the US for legalization. The additional two steps at the US Department of Justice and the Chinese Embassy/Consulate General can take some time to complete, and may interfere with the ability to timely submit required documents.

Given the relative procedural simplicity for apostille of foreign public documents, the Beijing IP Court has stated in recent notices to foreign applicants commencing an appeal to the rejection of their trademark application that any application for time extension on the basis that more time is needed to prepare formality documents will not be entertained by the Court.

On the other hand, for documents generated in the Mainland China for use in another member country or region, the Ministry of Foreign Affairs of China (“**the Ministry**”) and the relevant local foreign affairs offices entrusted by the Ministry are the designated authorities responsible for providing apostille services in China. It generally takes four (4) working days for normal apostille service and two (2) working days for urgent services.

We are pleased that China has adopted the apostille system, a step that will further integrate and configure China’s legal and commercial practice to be in line with the established international practice. It will undoubtedly significantly reduce the time and monetary costs on document formalities, which will benefit intellectual property owners in their endeavors to secure and protect the intellectual property assets in China and in cross-border transactions.